

(2011) 01 MAD CK 0367

In the Madras High Court

Case No : Writ Petition (MD) No. 8084 of 2010 and M.P. (MD) No. 2 of 2010

The Managing Director, Aranthangai Chemicals (P) Ltd.

APPELLANT

Vs

T.R. Ravi, The Public Information Officer, Tamil Nadu Pollution
Control Board and The Presiding Officer, District Consumer
Disputes Redressal Forum

RESPONDENT

Date of Decision : 28-01-2011

Acts Referred:

Consumer Protection Act, 1986 — Section 13, 13(2)
Right to Information Act, 2005 — Section 19, 23

Citation : (2011) 01 MAD CK 0367

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : Priya Ravi, for the Appellant; K. Balasundaram, for the Respondent

Final Decision : Allowed

Judgement

K. Chandru, J.—The Petitioner is the Managing Director of Aranthangi Chemicals Private Limited. He has come forward to challenge the Complaint Case filed by the first Respondent in C.C. No. 23 of 2010 on the file of District Consumer Disputes Redressal Forum, Pudukottai and seeks to set aside the same.

2. The writ petition was admitted on 30.06.2010. Pending the writ petition, this Court granted an order of interim stay.

3. On notice from this Court, the contesting first Respondent appears through counsel.

4. It is the case of the Petitioner that the Petitioner Company is registered under the Indian Companies Act and they are producing "Precipitated Calcium Carbonate and Activated Calcium Carbonate". The first Respondent labeling himself as a Social Worker and representing an organization known as "Human Rights Supervising Committee" filed a complaint before the third Respondent District Consumer Disputes Redressal Forum. The complaint was that when he

sought for certain information under the Right to Information Act (for short RTI Act) with reference to the Petitioner company, the same was not furnished. Therefore, labeling that as a deficiency of service filed the complaint. He did not chose to file any appeal against the alleged refusal to furnish information u/s 19 of the RTI Act. Notwithstanding the refusal to avail the appellate provision, he filed an application u/s 13(2) before the Consumer Protection Act. The said complaint was taken on file by the Pudukottai District Consumer Disputes Redressal Forum by registering it as Complaint Case No. 23/10 and notice was issued to the Petitioner.

5. The Petitioner Establishment filed a counter statement dated 24.04.2010 stating that the first Respondent cannot be considered as a consumer and the issue raised therein cannot be taken up as a consumer dispute. The information sought for under the RTI Act cannot be considered as a service rendered on payment. Therefore, the attempt made by the first Respondent is to black mark the Petitioner Company and hence, prayed for dismissal of the complaint in limine. Even without waiting for any order, they filed the present writ petition as noted above.

6. The short question that has to be considered in the present case is whether refusal to furnish an information under the RTI Act will enable any third party by labelling himself as a consumer and file a petition before the Consumer Court u/s 13 by the denial of information as a deficiency in service.

7. It must be noted that in case if a person is entitled for information and the Public Information Officer refuses such information, the Act provides for a remedy by way of appeal u/s 19 and even if the Information Officer do not provide information, a further remedy is available before the State Information Commission. Section 23 of RTI Act under also prohibits any Court from entertaining any suit or other proceedings in respect of any order made under the RTI Act. If any order is made under the said Act, the same cannot be questioned otherwise than by way of an appeal under the RTI Act.

8. It was contended that the remedy by way of the Consumer Forum is in addition to the remedy under the RTI Act and since the RTI Act do not bar any other forum, the complaint was maintainable. But however, the issue has to be looked in a slight different manner. The first Respondent had only sought for an information with the Petitioner company, which is admittedly a Private Company. Whether it will come within the purview of the RTI Act and whether they are bound to provide information is an issue which will have to be exclusively considered under the provisions of the RTI Act and not elsewhere. The circumstances in which a private company will come under the jurisdiction of the RTI Act came to be considered by this Court in New Tirupur Area Development Corporation Ltd. Vs. State of Tamil Nadu and Others, Unless the first Respondent establishes that the Petitioner company is covered by the provisions of the RTI Act and he is entitled to get information in terms of the Act, his approaching the Consumer Forum directly by calling himself as a consumer and denial of

information as a deficiency of service will not arise.

9. As rightly contended by the Petitioner, the Act provides for an appellate remedy to the Chief Information Officer, failing which a further appeal to the State Information Commission. The first Respondent had not established that he is entitled to seek the information and that it was unjustly denied by the Petitioner.

10. In view of the above, this Court is of the opinion that the 5 complaint filed by the first Respondent in C.C. No. 23 of 2010 on the file of the third Respondent District Consumer Disputes Redressal Forum is not maintainable.

11. The writ petition stands allowed. The third Respondent is hereby directed to return the complaint filed by the first Respondent in C.C. No. 23 of 2010 without any further action. No costs.